

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: 3DFX INTERACTIVE, INC. /

Nvidia Corporation et al

v.

William A. Brandt, Jr.

NO. C 06-03238 JW

Related Case No. C 06-03856 JW

**ORDER DENYING MOTION FOR
LEAVE TO APPEAL BANKRUPTCY
COURT DECISION**

Before the Court is nVidia's motion for leave to appeal two interlocutory orders of the Bankruptcy Court, one granting the Equity Committee standing to pursue a declaratory relief action against nVidia, and another striking evidence that nVidia sought to introduce in connection therewith. An appeal from an interlocutory order in a bankruptcy case is a permissive one that can be taken only by leave of the district court or the bankruptcy appellate panel. 28 U.S.C. § 158. In considering whether to grant leave to appeal, the standard set forth in 28 U.S.C. § 1292(b) applies to the bankruptcy court interlocutory order. See Oliner v. Kontrabecki, 305 B.R. 510, 527 (N.D. Cal. 2004). Because nVidia has not demonstrated that the orders at issue involve a controlling question of law as to which there is a substantial ground for difference of opinion and that an intermediate appeal from the orders may materially advance the ultimate termination of the litigation, nVidia's motion for leave to appeal is DENIED.

Dated: July 17, 2006

06cv3828subm

/s/ James Ware

JAMES WARE

United States District Judge

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

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Dated: July 17, 2006

Richard W. Wieking, Clerk

**By: /s/ JW Chambers
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Courtroom Deputy**